

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:01-00011-07

M. DERRICK SPRY

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On July 19, 2010, the United States of America appeared by Joshua C. Hanks, Assistant United States Attorney, and the defendant, M. Derrick Spry, appeared in person and by his counsel, Christian M. Capece, Assistant Federal Public Defender, for a hearing on the petition on supervised release submitted by United States Probation Officer Douglas W. Smith, the defendant having commenced a forty-nine-month term of supervised release in this action on April 30, 2009, as more fully set forth in the Supervised Release Revocation and Judgment Order entered by the court on August 18, 2008.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant committed the state and local offenses of defective equipment and driving on a suspended drivers license for which he received citations on October 15, 2009, as evidenced by his conviction on November 12, 2009, at which time he was assessed a fine and court costs; (2) that the defendant used marijuana, Lortabs and Percocet as admitted to the probation officer on July 22, 2009; (3) that the defendant used marijuana on multiple other occasions as evidenced by positive urine specimens submitted by him on August 14, October 5, November 13 and 30, December 9, 11 and 29, 2009, and January 14 and 27, February 12 and April 14, 2010; (4) that the defendant used four two-milligram Ativan tablets a day for three days without a valid prescription as evidenced by his admission to the probation officer on October 5, 2009; (5) that the defendant used Xanax without a valid prescription on January 19, March 15 and April 21, 2010, as evidenced by his admissions to the probation officer; and (6) that the defendant failed to appear for urine screens as directed on May 27 and June 10, 2009, and February 9,

March 31, April 23 and May 10, 2010; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

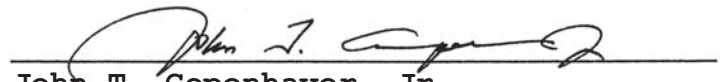
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TWELVE (12) MONTHS, to be followed by a term of THIRTY-SEVEN (37) MONTHS of supervised release upon the standard conditions

of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he spend the first six months of supervised release in a community confinement program such as that available at Transitions, Inc. and make himself available for drug abuse counseling and treatment as is available.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: July 26, 2010


John T. Copenhaver, Jr.
United States District Judge